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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

14 CFR Chapters I, II, III

23 CFR Chapters I, II, III

46 CFR Chapter II

48 CFR Chapter 12

49 CFR Chapters I, II, III, V, VI, VII, VIII, X, XI

[Docket No. DOT-OST-2014-0024]

Next Phase of the Regulatory Review of Existing DOT Regulations

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” the Department of Transportation (Department, DOT, or we) is conducting a review of its existing regulations to evaluate their continued validity and determine whether they are crafted effectively to solve current problems. On February 16, 2011, the Department began a process to review existing regulations, which included a public meeting and various other opportunities to solicit public comments. That process resulted in a Plan for Implementation of Executive Order 13563 that was released in August 2011. Additionally, the Department has regularly updated the list of regulations that are under review or further study and provided updates on timing of the review. The latest update was released in January 2014 and can be found at <http://www.reginfo.gov>. (See Appendix D of the Department’s semi-annual

Regulatory Agenda.) In continuing this effort, the Department again invites the public to comment on the next phase of its retrospective regulatory review process.

DATES: Comments should be received on or before [INSERT date 30 days after date of publication]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments to Docket No. DOT–OST–2014–0024 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed envelope or postcard.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you provide.

Docket: To read background documents or comments received, go to <http://www.regulations.gov> and click on the “read comments” box in the upper right-hand side of the screen. Then, in the “Keyword” box insert “DOT-OST–2014–0024” and click “Search.” Next, click the “Open Docket Folder” in the “Actions” column. Finally, in the “Title” column, click on the

document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kathryn Sinniger, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 493-0908. *E-mail:* kathryn.sinniger@dot.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 13563

On January 18, 2011, President Obama issued Executive Order 13563, which outlined a plan to improve regulation and regulatory review (76 FR 3821, Jan. 21, 2011). Executive Order 13563 reaffirms and builds upon governing principles of contemporary regulatory review, including Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, Oct. 4, 1993), by requiring Federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness. The President’s plan recognizes that these principles should guide the Federal government’s approach not only to new regulation, but to existing ones as well. To that end, Executive Order 13563 requires agencies to review existing rules to determine if they are outmoded, ineffective, insufficient, or excessively burdensome.

To facilitate this review, Executive Order 13563 requires each agency to develop and submit to the Office of Management and Budget’s Office of Information and Regulatory Affairs a preliminary plan for retrospectively analyzing existing rules. The Department complied with

this requirement with the release of a Plan for Implementation of Executive Order 13563, available on the Department's Web site for regulations at <http://www.dot.gov/regulations>.

As Executive Order 13563 reaffirms, the regulatory process must be transparent and provide opportunities for public participation. The Department particularly believes, given its broad regulatory responsibility, this participation should extend to the Department's obligations under the Executive Order to continue the retrospective review of existing regulations. Continued meaningful review requires continued input from those affected by the Department's regulations.

DOT's Regulatory Responsibility

The mission of the Department is to serve the United States by ensuring a safe, fast, efficient, accessible, and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future. The Department carries out its mission through the Office of the Secretary (OST) and the following operating administrations (OAs): Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Maritime Administration (MARAD); National Highway Traffic Safety Administration (NHTSA); Pipeline and Hazardous Materials Safety Administration (PHMSA); and St. Lawrence Seaway Development Corporation (SLSDC). Although the Surface Transportation Board (STB) is a component of DOT, it is organizationally independent and, as a result, the Department does not have responsibility for the STB's regulatory agenda.

DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety issues in the aviation, motor carrier, railroad, motor vehicle, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues, and

provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor transportation and vehicle safety. DOT writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern programs such as acquisition and grants management, access for people with disabilities, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, security, and the use of aircraft and vehicles.

DOT's Existing Process for Reviewing Rules

The Department has long recognized that there should be no more regulations than necessary and those that are issued should be simple, comprehensible, and impose only as much burden as is necessary. Likewise, the Department understands that review and revision of existing regulations is essential to ensure that they continue to meet the needs for which they originally were designed and that they remain cost-effective and cost justified. The Department regularly makes a conscientious effort to review its rules in accordance with the Department's 1979 Regulatory Policies and Procedures (44 FR 11034, Feb. 26, 1979), Executive Order 12866, and section 610 of the Regulatory Flexibility Act, 5 U.S.C. § 610.

In 2011, in response to Executive Order 13563, the Department decided to improve its plan by adding special oversight processes within the Department; encouraging effective and timely reviews, including providing additional guidance on particular problems that warrant review; and expanding opportunities for public participation. The Department merged the results of the retrospective review of existing rules that was initially conducted pursuant to Executive Order 13563 and the other special reviews that were to be conducted, into a 10-year review plan

to provide a simpler resource for the public and a more effective tool for oversight and management of the Department's retrospective reviews of rules.

The Department's 2011 final plan listed 79 existing rules for which the Department had already undertaken or proposed actions that promise significant savings in terms of money and burden hours. In addition, the Department identified 56 other rules with potential savings, and we committed to further study of public commenter recommendations further before deciding on the appropriate action. You can find this list of rules as Attachment 2 to our 2011 final plan, located at <http://www.dot.gov/regulations/retrospective-review-and-analysis-existing-rules>.

Public Participation and Request for Comments

DOT is an active regulatory agency with broad regulatory responsibilities, thus a robust regulatory program is essential to our mission. For this reason, it is all the more important that we maintain a consistent culture of retrospective review and analysis. We have determined that it is time to begin a second round of retrospective review, even as the first round of reviews begun under Executive Order 13563 are being completed.

Unlike the first round of retrospective review under Executive Order 13563, where the Department solicited suggestions for specific rules that should be on the list of candidate rules for review, the Department is looking for your suggestions on how this round should be managed and your reasons for your suggestions.

1. Should DOT simply publish a notice in the **Federal Register** asking for suggestions for specific existing rules to be reviewed, as we did during the initial round?
2. Should DOT focus on the 56 rules identified in the 2011 plan as having potential savings? Or are there any particular rules from that list that should be?
3. Should DOT publish a notice and request for comment in the **Federal Register** —

- a. Focusing instead on the existing regulations of one or more specific OAs? If so, which OA(s) and why?
 - b. Focusing instead on one or more cross-cutting issues such as access rules or drug and alcohol testing? If so, which cross-cutting issues and why?
 - c. Focus on a combination of one or more specific OA(s) and specific cross-cutting issue(s)? If so, which and why?
4. One other idea would be to hold a series of listening sessions announced in the **Federal Register**, each one tailored to a specific OA or cross-cutting issue. Ideas developed at these sessions could be developed at additional public workshops (e.g., if the OA has an authorized advisory committee (such as FRA's Railroad Safety Advisory Committee chartered under the Federal Advisory Committee Act), at workshops under the auspices of that advisory committee), and/or through publication of a notice and request for comment in the **Federal Register**, before the idea is included in a DOT draft preliminary retrospective review plan with a request for comment. We would like your thoughts on whether this idea is preferable, and if so how much time should be allowed for each stage (listening sessions, additional public workshops, and/or publication of a notice and request for comment on the suggestions for retrospective review). Please send suggestions as to which OAs and/or cross-cutting issues could benefit from this more in-depth retrospective review, including your rationale.
5. We also seek other alternatives for how to implement this second round of retrospective review and your reason for supporting the alternative(s).

Regulatory Notices

Privacy Act: Anyone may search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <http://www.gpoaccess.gov/fr/browse.html> and browse under 2000 for April 11, looking under the heading “Department of Transportation.”

Authority: 5 U.S.C. 610; E.O. 13563, 76 FR 3821, Jan. 21, 2011; E.O. 12866, 58 FR 51735, Oct. 4, 1993.

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Kathryn B. Thomson,

Acting General Counsel.

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